



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0623]

RIN 1625-AA00

Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Coastal Virginia

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone around M/V ZHEN HUA 24 during its transit through certain waters of the Chesapeake Bay and Coastal Virginia. This action is necessary to provide for the safety of life on these navigable waters during the movement of the M/V ZHEN HUA 24 while it is transporting four new Super-Post Panamax container cranes to the Port of Baltimore, anticipated to begin transit of the Chesapeake Bay on August 31, 2021. The Captain of the Port Virginia has determined that limited maneuverability and unique cargo of this vessel are potential hazardous to any person or vessel within the safety zone. This rulemaking prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Virginia or a designated representative.

DATES: This rule is effective August 30, 2021 through September 29, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Ashley Holm, Sector Virginia Waterways Management division, U.S. Coast Guard; telephone 757-668-5581, email VirginiaWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
CBBT	Chesapeake Bay Bridge-Tunnel
COTP	Captain of the Port

II. Background Information and Regulatory History

On June 28, 2021, Ports America Chesapeake, LLC notified the Coast Guard that the M/V ZHEN HUA 24 will be transporting four new Super-Post Panamax container cranes from Shanghai, China, to the Port of Baltimore. These cranes will be delivered to, and installed at, the Seagirt Marine Terminal at Baltimore, MD. In response, on August 12, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone: M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Coastal Virginia, 86 FR 44328. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During the comment period that ended August 23, 2021, we received no comments. When the NPRM was published, the M/V ZHEN HUA 24 was estimated to arrive between September 4, 2021, and September 29, 2021. This arrival date has been moved up due to changes in shipping schedules and is now scheduled to begin its inbound transit on August 31, 2021, but this date is still subject to change.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the transit of the M/V ZHEN HUA 24 to Baltimore, MD, which is expected to occur prior to the 30 day time period. Actual notice of enforcement of this

rule will be provided via Broadcast Notice to Mariners and VHF-FM radio transmissions.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP Virginia has determined that potential hazards associated with the crane delivery operation would be a safety concern for any vessel required to transit the navigation channels in the Chesapeake Bay and Coastal Virginia that would meet, pass, or overtake the M/V ZHEN HUA 24. These hazards can be mitigated with a 500 yards radius safety zone around the vessel. The purpose of this rule is to ensure safety of vessels and protect the environment and critical national infrastructure such as the Chesapeake Bay bridge-tunnel (CBBT) during the vessel's transit to Baltimore.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 12, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary moving safety zone with a radius of 500 yards centered around the M/V ZHEN HUA 24 during the inbound transit through the territorial sea and the Chesapeake Bay to Baltimore, MD. The safety zone will be enforced when the M/V ZHEN HUA 24 enters the U.S. Territorial Sea, as defined in 33 CFR 2.22(a)(1), and enforcement will end when the vessel crosses the Virginia-Maryland State Line in the Chesapeake Bay. The M/V ZHEN HUA 24 is expected to begin its inbound transit through the Chesapeake Bay on August 31, 2021, but this is subject to change. The duration of the zone is intended to ensure the safety of vessels and these navigable waters for the duration of the vessel's transit estimated to last 15 hours. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on This regulatory action determination is based on the size and duration of the safety zone, which would impact only vessel traffic required to transit certain navigation channels of the Chesapeake Bay and the Coastal Virginia for an expected total no more than 15 enforcement-hours. Although these waterways support both commercial and recreational vessel traffic, small portions of the waterway would be restricted for a small period of time as the M/V ZHEN HUA 24 transits northward in the Chesapeake Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have

a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves involves a temporary safety zone that would prohibit entry within certain navigable waters of the Chesapeake Bay and Coastal Virginia within a 500 yards radius of the M/V ZHEN HUA 24. It is categorically excluded from further review under paragraph L60c of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for the Record supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T05-0623 to read as follows:

§ 165.T05-0623 Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Coastal Virginia

(a) *Regulated Area.* The rule establishes the following regulated area as a temporary moving safety zone: All waters within a 500 yards radius of the M/V ZHEN HUA 24 during its inbound transit to Baltimore, MD. Inbound transit will begin when the M/V ZHEN HUA enters the U.S. Territorial Sea, as defined in 33 CFR 2.22(a)(1), and end when the vessel crosses the Virginia- Maryland State Line in the Chesapeake Bay, a line starting at a point 38° 01'36" N latitude, 75° 14'34" W longitude, then south east to a

point 37° 19'14" N latitude, 72° 13'13" W longitude. These coordinates are based on WGS 84.

(b) *Definitions.* As used in this section---

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Virginia.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Virginia (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at (757) 483-8567 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced during inbound transit of the M/V ZHEN HUA 24 through Coastal Virginia and Chesapeake Bay on the way to the Port of Baltimore.

Dated: August 24, 2021.

Jennifer A. Stockwell,
Captain, U.S. Coast Guard,
Acting Captain of the Port Virginia.

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